

# EXHIBIT 1

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ROBERT MERNER, SWORN

VOIR DIRE EXAMINATION

By Mr. Rappaport:

Q State your name for the record, please, sir.

A My name is Robert Merner.

THE COURT: How do you spell your last name,  
sir?

THE WITNESS: M-e-r-n-e-r.

BY MR. RAPPAPORT:

Q Are you a Boston Police patrolman?

A Yes, I am.

Q Directing your attention, sir, back to August 21, 1988,  
did you receive a telephone call or a message from  
a confidential informant that night?

A It was in the afternoon, yes, sir.

Q In the afternoon. And can you tell the Court, please,  
what was the substance of that information that you  
had received.

A It was a telephone call to the Area B police station,  
asking for a detective assigned to the Tiffany Moore  
murder. There was no detectives at the desk at that  
time. The clerk handed me the phone. A gentleman  
who refused to identify himself, said that he would  
meet me at, I believe it was Northampton and Wash.

1 in the South End, said he had information relative  
2 to the masks that were used, or he believed to be used  
3 in the shooting.

4 Q Okay. And did you proceed to the area where he had  
5 asked to meet you?

6 A Yes, I did.

7 Q And did you have a conversation with him at that point?

8 A Yes, sir, I did.

9 Q And what did he tell you at that particular time?

10 A He told me that he was a street person and that he  
11 was asleep underneath a tractor-trailer truck on the  
12 night of the incident and that a vehicle pulled up,  
13 he couldn't identify the vehicle, and that they tossed  
14 a bag over the fence and then the vehicle left. He  
15 heard some conversation and the vehicle left.

16 Q Okay. And did he direct you to the area where the  
17 bag had been tossed over the fence?

18 A Yes, sir, he did.

19 Q And was a search conducted at that time?

20 A Yes.

21 Q And as a result of that search, was something found?

22 A Yes. It was two wool caps with, it would be like eyes  
23 and nose, eyes and mouth holes cut out of them.

24 Q Okay. And did you do something with those masks?

25 A Yes.

1 Q What did you do with them -- what were they like, ski  
2 masks?

3 A What I think they would be, would be a wool hat that  
4 you would wear and they just stretched it out and cut  
5 holes into them. They weren't like store made masks.  
6 They were homemade.

7 Q So they definitely appeared to be masks?

8 A Yes.

9 Q And after conducting the search, you found those masks?

10 A Yes.

11 Q And did you turn them over to somebody?

12 A Yes, I bagged them and notified Detective Walsh from  
13 the homicide unit.

14 Q You gave them to Detective Walsh?

15 A That's correct.

16 Q This street person that you had spoken to that night,  
17 did he indicate to you what time of night the bag  
18 had been thrown over the fence?

19 A I don't recall if he did.

20 MR. RAPPAPORT: No further questions.

21

22 VOIR DIRE EXAMINATION

23 By Mr. Beauchesne:

24 Q This was August 21 that the call came in?

25 A Yes, sir.

1 Q Was this a male or female street person?

2 A It was a male.

3 Q When did this street person say that he had observed  
4 the incident that he described to you?

5 A He said it was, he had read the paper that morning  
6 and knew that the police were looking for help, and  
7 he said he was sleeping the other night, he believed  
8 it to be the night of the incident.

9 Q So it was the night of the incident, but did he tell  
10 you when the car pulled up and the bag was thrown?

11 A I believe it said the same night, sir.

12 Q That's the same night?

13 A Right.

14 Q Did he give you any idea of what time of night or day,  
15 or what time of night?

16 A I don't recall the time, if he stated it, whether it  
17 was --

18 Q With regard to the masks --

19 MR. BEAUCHESNE: Which I should say, Your  
20 Honor, that we have, and I could produce.

21 BY MR. BEAUCHESNE:

22 Q When I say masks, they're not masks, isn't that so?

23 A That's correct.

24 Q They are, in fact, wool hats?

25 A Wool hats with holes.

1 Q With holes cut in them?

2 A That's correct, sir.

3 Q And I think you described them as a wool hat stretched  
4 out and the holes were cut in, cut in?

5 A That's correct, sir.

6 Q They're not anything like a Halloween mask with orange  
7 hair?

8 A No, sir.

9 Q Or a so-called Jason mask, that is to say, a white  
10 hockey mask?

11 A No, sir.

12 Q They don't resemble that in the slightest?

13 A No, sir, not at all.

14 Q Would it be possible, based upon your observations,  
15 for any person to confuse either of those masks with  
16 a white hockey mask?

17 A No, sir.

18 Q A so-called cast stone face, Halloween mask?

19 A No, sir.

20 MR. BEAUCHESNE: All right.

21 MR. RAPPAPORT: I have nothing further, Your  
22 Honor.

23 THE COURT: All right. What's the point of  
24 all of this? It's a nonissue as far as I can see.

25 MR. RAPPAPORT: As a result of the testimony,

1 Your Honor, I would agree, but if I may have a moment  
2 to talk to my client?

3 THE COURT: Sure.

4 MR. BEAUCHESNE: If I could just say, Your  
5 Honor, on the record, that when I sent that report  
6 over to Mr. Rappaport, it was with tongue in cheek, but  
7 we had had a wide open discovery policy.

8 THE COURT: For which you're commended.

9 MR. BEAUCHESNE: Thank you.

10 MR. RAPPAPORT: And with tongue in cheek,  
11 I may say that Mr. Beauchesne was surprised that he  
12 didn't hear from me within five minutes after he sent  
13 the report over.

14 THE COURT: Is that it, gentlemen?

15 MR. BEAUCHESNE: I believe so, Your Honor.

16 MR. RAPPAPORT: It's a nonissue.

17 THE COURT: Let's take the lunch break. Ten  
18 minutes to two.

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20 LUNCHEON RECESS

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